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Originator

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### DECISION

Mr. Edward McRae  
Pilot Exploration, Inc.  
1585 N W Emperor Drive  
Corvallis, OR 97330

43 CFR 3809  
Surface Management  
Noncompliance Order

#### Noncompliance Order for Failure to Reclaim the CJ 6 Claim Area

In an effort to close out long-idle, or inactive case files, our office has been conducting inspections of mining claims throughout the Salt Lake Field Office. An inspection of your CJ 6 lode mining claim located in T. 6 N., R. 19 W., Section 10 (UMC 265104) reveals that you have not reclaimed the areas of surface disturbance under your Notice as required under Bureau of Land Management's (BLM) Surface Management regulations at 43 CFR 3809. A review of our mining claim records indicates that the last year that assessment work was filed on the subject claim was in 2000. The subject mining claim file was subsequently closed by the Utah State Office. Please be aware that as the claimant, you are the responsible party for reclamation of all surface disturbance on your claims, even if you have failed to complete the required assessment work or pay the maintenance fees and have let your claims lapse.

The principal surface disturbance associated with your exploratory activities includes two un-reclaimed access roads which lead to two un-reclaimed drillpads. The southern drill pad is located within one of the two access roads. This access road splits with the northern branch providing access to a second drill pad located along the western margin of the CJ 6 claim. An additional access route extends from private lands to the east of the CJ 6 claim, into this second drill pad location. None of the access roads or drill pads have been reclaimed to date.

Your failure to reclaim the surface disturbance associated with your exploratory activities has resulted in unnecessary or undue degradation to Public Lands, for which you are hereby being issued a Noncompliance Order.

As described at 43 CFR 3809.601, if you fail to timely comply with a Noncompliance Order, the BLM may issue you an Enforcement Order. An Enforcement Order may specify how you are failing or have failed to comply with the requirements of this subpart and the actions you must take to correct the noncompliance and the time, not to exceed 30 calendar days, within which you must start corrective action. An Enforcement Order may also specify the time within which you must complete corrective action.

In order to bring yourself into compliance with Federal regulations, you must complete all of the required reclamation of the surface disturbance within your CJ 6 lode mining claim. Reclamation would include pulling sidecast material back onto each access road, recontouring the disturbed drillpads so that they blend in with the natural topography, ripping and scarifying each of the access roads along their entire length, covering all of the disturbed areas with stockpiled topsoil (or bringing in new topsoil if none was saved during the original excavation of the site), and re-seeding all of the areas of surface disturbance with live native seed. The optimum time for successful revegetation is from October 15 through November 30 of this year. A list of recommended native seed to use for the revegetation of this area will be provided upon request.

Please contact this office within 14 days of receipt of this letter to set up a schedule for reclamation of the surface disturbance associated with your exploratory drilling activities or an Enforcement Order will be issued to Pilot Exploration, Inc. If you fail to comply with an Enforcement Order, the Department of the Interior may request that the United States Attorney institute a civil action in United States District Court for an injunction or order to enforce its order, to prevent Pilot Exploration, Inc. from conducting operations on the Public Lands in violation of this subpart, and collect damages resulting from unlawful acts.

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may have the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the Utah State Director does not make a decision on whether to accept your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You then have 30 days in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass the State Director review, this decision may be appealed directly to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the Salt Lake Field Office, located at 2370 South 2300 West, Salt Lake City, Utah, 84119, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If you have any questions, or require additional information, please feel free to contact Michael Ford of my staff at (801) 977-4360.

**GLENN A. CARPENTER**

Glenn A. Carpenter  
Field Office Manager

Enclosures

cc: D. Wayne Hedberg  
Utah Division of Oil, Gas and Mining  
Utah State Office (UT-920)